

## HB 376 Drug Testing for DUI convictions

The state of Montana is challenged to keep impaired drivers off our highways. We kill twice as many people per mile driven as the national average. See attached for more statistics.

We don't have room to incarcerate people who are a danger to others only when impaired. We need better strategies to keep them clean and sober. We need them to be working to support themselves and their families. We don't have enough taxpayer money to put all these people in jails and prison. But we can't have them driving impaired on our public highways. We need to prevent these crimes to save lives and to save costs.

Our law enforcement officers and judges have statutory authority to mandate substance abuse treatment and to require ignition interlock devices to help prevent recidivism. These are not always effective. This bill would offer another choice to improve compliance with court mandated abstinence from drug and alcohol use.

There are many examples of effective drug testing programs to use for a model:

Department of Transportation	Workplace
Felony probation	Family Court
Schools	Sports
Professional monitoring [doctors, nurses, pharmacists, dentists]	

The judge could ask a substance abuse professional, a physician medical review officer, or a probation and parole officer to recommend which type of test which would be most effective and the frequency of specimen collection. The judge would order type of specimen, testing methodology, and review requirements, and specify payment arrangements.

Sample court order: [underlined items would be specified for each case]

*John Doe, DOB 5/22/60, will report to Dr. Jim Smith, 222 Main St., and provide a urine specimen to be tested for marijuana metabolites, opioids to include oxycodone, hydcodone, methadone, and morphine, benzodiazepines, cocaine, amphetamines, and ETG within 6 hours of notification.*

*A minimum of 12 specimens will be provided between 2/10/09 and 2/10/10. Testing dates will be determined by Dr. Jim Smith using a computerized random selection program. John Doe will notify Dr. Smith of any change in contact information.*

*Failure to report for testing, or failure to provide an adequate specimen, or any attempt to adulterate or substitute a specimen, will result in the same consequences as a positive test.*

Suggested amendment

(5) As an alternative to any sentence imposed under subsection (1) or (2), a court may order the convicted person to submit to tests for the presence of alcohol or drugs in the person's body during the duration of the alternative sentence. The tests may be administered by a law enforcement officer or by a healthcare provider or third party administrator approved by the court. The tests must be administered on a schedule established by the court. The court may alter the testing schedule as is, in the discretion of the court, considered appropriate based on the test results. The testing officer, healthcare provider, or third party administrator shall, as soon as reasonably possible, report all test results to the sentencing court. The convicted person shall pay for the testing unless the court determines the person is unable to pay.

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## HB 376 Drug Testing for DUI Offenders

Driving a vehicle is dangerous.

A momentary lapse of concentration can result in serious injury or death.

Alcohol and other drugs impair concentration, vision, and coordination.

### Montana Drivers and Drugs:

- 2006 Impaired driver fatalities 47.9% of total<sup>1</sup>
  - Decreased during 1983-1996 more than 50%
  - Total fatalities leveled out 1996-2007
  - Impaired % increased 7.1% over last five years
- 2006 Fatality rate 2.33 Alcohol related 1.12
  - Number of fatalities per vehicle miles driven
  - National alcohol related rate = 0.56
- Economic loss estimated at \$178 million
- 2008 1311 DUI specimens analyzed by Montana crime lab<sup>2</sup>
  - Positive findings: 65% alcohol, 30% drugs, 35% poly drugs, 44% drugs & alcohol [if alcohol > 0.08% specimen is not tested for drugs]
  - In specimens positive for drugs: cannabis found in 43.9%
  - 33 specimens THC in a fatality

### Drugs and Human Performance Fact Sheets<sup>3</sup>

- National Highway Traffic Safety Administration
- Panel of international experts
  - Psychopharmacology, behavioral psychology, drug chemistry, forensic toxicology, medicine, and law enforcement officers trained in the recognition of drug effects on drivers
- Identified the specific effects that both illicit and prescription drugs have on driving
- Developed guidance for others when dealing with drug-impaired driving problems

### 2005-2006 National Survey on Drug Use and Health (NSDUH)

- 28.6% Montanans 12 or older report binge alcohol drinking in last month
- 10.8% Montanans 12 or older report alcohol dependence or abuse in last year
- 14.1% Montanans 12 or older report marijuana use in last month
- 9.3% Montana youths age 12-17 report non-medical use of pain relievers last month
- 13.4% Montanans age 18-25 report non-medical use of pain relievers in last month

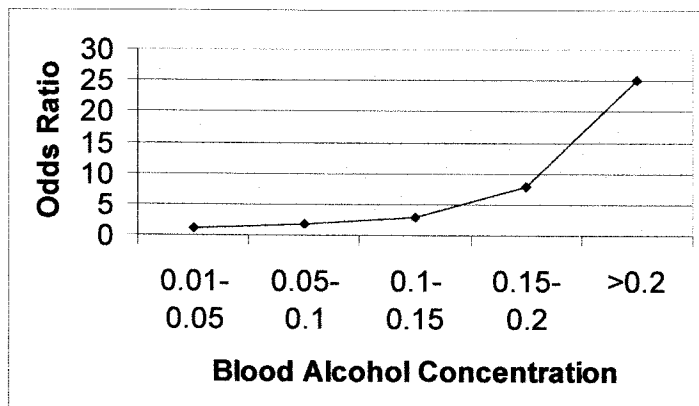
### Injury Accidents Caused by Prescription Drugs (Norway)<sup>4</sup>

- Standardized Incident Rates (1.0 = no drugs)
- Carisoprodol (Soma) 3.7
- Diazepam (Valium) 2.8
- Narcotics 2.0
- Benzodiazepine tranquilizers (Xanax, Ativan, Klonopin) 2.9
- Benzodiazepine hypnotics (sleeping pills) 3.3

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### Relative Risk of Death<sup>5</sup>

- Drivers killed in road crashes (3398) in western Australia
- Blood specimens within 4 hours of crash
- Responsibility analysis based on 8 mitigating factors; only “culpable” drivers included
- 29.1% had alcohol  $\geq 0.05\%$  BAC [legal limit for DUI in Australia]
- 26.7% had psychoactive drugs – 13.5% Cannabinoids



	Drivers	Odds Ratio
Drug & Alcohol Free	1704 (50%)	1
Opiates	59 (1.7%)	1.41 *
Benzodiazepines	34 (1%)	1.27*
THC only	58 (1.7%)	2.7
THC only ( $\geq 5\text{ng/ml}$ )	49(1.4%)	6.6
Stimulants (all drivers)	53 (1.6%)	2.27*
Stimulants (truckers)	22(15.8%)	8.83
*Not significant		

- THC  $\geq 5\text{ng/ml}$  odds ratio similar to drivers with BAC  $\geq 0.15\%$
- THC + BAC  $\geq 0.05\%$  odds ratio 2.8 times BAC  $\geq 0.05\%$  alone

### REFERENCES:

<sup>1</sup><http://mdt.mt.gov/safety/impaired.shtml>

<sup>2</sup> Personal communication, Montana State Crime Lab

<sup>3</sup> <http://www.nhtsa.dot.gov/people/injury/research/job185drugs/index.htm>

<sup>4</sup> Engleland, et.al., 2007, Risk of road traffic accidents associated with the prescription of drugs: A registry-based cohort study. Ann Epidemiol 17:597-602

<sup>5</sup> Drummer, et.al., 2003, The involvement of drugs in drivers of motor vehicles killed in Australian road traffic crashes. Accident Analysis and Prevention 943 1-10.